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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,762	03/24/2004	Mark W. Triplett	04-258	4274
39310 7590 02/21/2008 MBHB/TRADING TECHNOLOGIES 300 SOUTH WACKER DRIVE SUITE 3200 CHICAGO, IL 60606			EXAMINER VEZERIS, JAMES A	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 02/21/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/807,762	TRIPLETT, MARK W.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JAMES A. VEZERIS	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **Detailed Action**

#### **Claim Objections**

1. Claims 14, 15, 16, and 24 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. See MPEP 608.01(n), the "Infringement Test" for clarification.

#### **Specification Objections**

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

#### **Claim Rejections- 35 U.S.C. 102(e)**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7, 14-19, and 24 are rejected under 35 U.S.C. 102(a) as being anticipated by US Patent 6,938,011 to Kemp II et al. (Hereinafter "Kemp").

**Regarding Claim 1.**

Kemp teaches a method for sending an order to an electronic exchange, the method comprising:

receiving a command representing an order request to buy or sell a quantity of a tradeable object at a particular price; (See Fig 6, Column 10 lines 20-45)

temporarily holding the order request such that the order request is not sent to a matching engine at the electronic exchange; (See Fig 6, Columns 10-11 lines 49-4)

receiving market data comprising quantity and price information relating to the tradeable object being traded at the electronic exchange; (See Fig 6, Columns 10-11 lines 49-4)

releasing the order request to the matching engine at the electronic exchange when a specific event is detected. (See Fig 6, Columns 10-11 lines 49-4)

**Regarding Claim 2.**

Kemp further teaches displaying an order entry region comprising a plurality of locations for receiving the command to send the order request, each location corresponding to a price level along a common static price axis. (See Fig 6, Columns 10-11 lines 20-4) Examiner notes that depending upon the price selected in Kemp a different request will be sent.

**Regarding Claim 3.**

Kemp further teaches in response to a selection of a particular location of the order entry region by a single action of a user input device, setting a plurality of parameters for the order request relating to the tradeable object and sending the order request to a gateway. (See Fig 6, Columns 10-11 lines 20-4)

**Regarding Claim 4.**

Kemp further teaches displaying a second plurality of locations in the order entry region for receiving the command to send an order to an electronic exchange, each location corresponding to a price level along the common static price axis. (See Fig 6, Columns 10-11 lines 20-4) Examiner notes the first location was for purchasing and the second location was for selling.

**Regarding Claim 5.**

Kemp further teaches the order entry region is displayed on a screen of a user terminal. (See Fig 3)

**Regarding Claim 6.**

The method of claim 1 further comprising:

dynamically displaying a first indicator in one of a plurality of locations in a bid display region, each location in the bid display region corresponding to a price level along a common static price axis, the first indicator representing quantity associated with at least one order to buy the tradeable object at the highest bid price currently available in the market; (See Fig 3) BidQty

dynamically displaying a second indicator in one of a plurality of locations in an ask display region, each location in the ask display region corresponding to a price level

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along the common static price axis, the second indicator representing quantity associated with at least one order to sell the tradeable object at the lowest ask price currently available in the market. (See Fig 3) AskQty

**Regarding Claim 7.**

Kemp further teaches the specific event represents a rate in trades occurring to buy or sell the tradeable object. (See Fig 6, Columns 10-11 lines 49-4) Examiner notes rate is defined as last sold price.

**Regarding Claim 14.**

Kemp further teaches an intermediary device in communication with a user terminal and an electronic exchange having stored therein instructions to execute the method of claim 1. (See claim 26)

**Regarding Claim 15.**

Kemp further teaches a computer device at an electronic exchange in communication with a user terminal having stored therein instructions to execute the method of claim 1. (See Claim 26)

**Regarding Claim 16.**

Kemp further teaches a computer device that is remote to an electronic exchange and in communication with the electronic exchange having stored therein instructions to execute the method of claim 1. (See claim 26)

**Regarding Claim 17.**

Kemp teaches method for sending an order to an electronic exchange, the method comprising:

receiving a command representing an order request to buy or sell a quantity of a tradeable object at a particular price; (See Fig 6, Column 10 lines 20-45)

refraining from sending the order request to a matching engine at the electronic exchange; (See Fig 6, Columns 10-11 lines 49-4)

receiving market data comprising quantity and price information relating to the tradeable object being traded at the electronic exchange; (See Fig 6, Columns 10-11 lines 49-4)

forwarding the order request to the matching engine at the electronic exchange when an event is detected in the received market data. (See Fig 6, Columns 10-11 lines 49-4)

**Regarding Claim 18.**

Kemp further teaches the method of claim 17 wherein the event represents a specific rate of trades occurring at the particular price level. (See Fig 6, Columns 10-11 lines 49-4) Examiner notes rate is defined as last sold price.

**Regarding Claim 19.**

Kemp further teaches the event represents a preprogrammed occurrence. (See Fig 6, Columns 10-11 lines 49-4)

**Regarding Claim 24.**

Kemp further teaches a computer readable medium having stored therein instructions to execute the method of claim 17. (See Claim 26)

**Claim Rejections- 35 U.S.C. 103(a)**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-13, 20-22, and 25-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Kemp in further view of US Patent 5787402 to Potter et al. (Hereinafter "Potter").

**Regarding Claim 8.**

Kemp fails to further teach displaying a first type of order indicator representing the order request at a first time, wherein the first time represents a time before the event is detected. However, Potter does. (See Fig. 16)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a first type of order indicator representing the order request at a first time, wherein the first time represents a time before the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 9.**

Kemp fails to further teach displaying a second type of order indicator representing the order request at a second time, wherein the second time represents a time after the event is detected, and wherein the first type of order indicator is no longer displayed. However, Potter does. (See Fig. 17)



It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a second type of order indicator representing the order request at a second time, wherein the second time represents a time after the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 10.**

Kemp fails to further teach modifying the first type of order indicator into a second type of order indicator representing the order request at a second time, wherein the second time represents a time after the event is detected. However, Potter does. (See Fig. 17)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include modifying the first type of order indicator representing the order request at a second time, wherein the second time represents a time after the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 11.**

Kemp fails to further teach displaying a second type of order indicator representing a real order, wherein the first type of order indicator is visually distinguishable from the second type of order indicator. However, Potter does. (See Fig. 17) Examiner notes that the indicator reads released, making it distinguishable from Fig.

16.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a second type of order indicator representing a real order, wherein the first type of order indicator is visually distinguishable from the second type of order indicator. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 12.**

Kemp fails to further teach the first type of order indicator indicates a quantity of the order request and if the order request is a buy or sell order request. However, Potter does. (See Fig. 16)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include the first type of order indicator indicates a quantity of the order request if the order request is a buy or sell order request. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 13.**

Kemp fails to further teach the first type of order indicator indicates the specific event. (See Fig. 16) Examiner notes the buy and sell areas.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include the first type of order indicator indicates the specific event There is motivation to do so because a user of the present

invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 20.**

Kemp fails to further teach displaying a first type of order indicator representing the order request at a first time, wherein the first time represents a time before the event is detected. However, Potter does. (See Fig. 16)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a first type of order indicator representing the order request at a first time, wherein the first time represents a time before the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 21.**

Kemp fails to further teach displaying a second type of order indicator representing the order request at a second time, wherein the second time represents the time after the event is detected. However, Potter does. (See Fig. 17)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a second type of order indicator representing the order request at a second time, wherein the second time represents a time after the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 22.**

Kemp fails to further teach displaying a first type of order indicator that represents a virtual order and a second type of order indicator that represents a real order, wherein the first type of order indicator is visually distinguishable from the second type of order indicator. However, Potter does. (See Fig. 16 and Fig. 17) Examiner notes the virtual order is being read as an order that is sitting on the market waiting to be executed, while the real order is the executed order.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a first type of order indicator that represents a virtual order and a second type of order indicator that represents a real order, wherein the first type of order indicator is visually distinguishable from the second type of order indicator. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 25.**

Kemp teaches a method for sending an order to an electronic exchange, the method comprising:

receiving a command representing an order request to buy or sell a quantity of a tradeable object at a particular price; (See Fig 6, Column 10 lines 20-45)

Kemp fails to teach displaying at a user terminal a first type of indicator representing the order request. However Potter does. (See Fig. 16)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to display at a user terminal a first type of indicator representing the order request. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

Kemp further teaches refraining from sending the order request to a matching engine at the electronic exchange; (See Fig 6, Columns 10-11 lines 49-4)

receiving market data comprising quantity and price information relating to the tradeable object being traded at the electronic exchange; (See Fig 6, Columns 10-11 lines 49-4)

forwarding the order request to the matching engine at the electronic exchange when an event is detected in the received market data; (See Fig 6, Columns 10-11 lines 49-4)

Kemp fails to further teach displaying at a user terminal a second type of indicator representing the order request, wherein the first type of indicator represents the order request at a first time which represents a time before the event is detected and the second type of indicator represents the order request at a second time which represents a time after the event is detected. However, Potter does. (See Fig. 16 and Fig. 17)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to display at a user terminal a second type of indicator representing the order request, wherein the first type of indicator

represents the order request at a first time which represents a time before the event is detected and the second type of indicator represents the order request at a second time which represents a time after the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 26.**

Kemp further teaches the event represents a preprogrammed occurrence. (See Fig 6, Columns 10-11 lines 49-4)

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kemp in view of US Patent 6532460 to Amanat et al. (Hereinafter "Amanat")

**Regarding Claim 23.**

Kemp fails to teach deleting the order request from an exchange order book at the matching engine. However, Amanat does. (See Fig. 2; Col 7 lines 14-39)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to delete the order request from an exchange order book at the matching engine. There is motivation to do so because it allows a trader to get out of a position if they believe it will result in the loss of money.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. VEZERIS whose telephone number is (571)270-1580. The examiner can normally be reached on Monday-alt. Fridays 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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February 13, 2008